

RESOLUTION NO. 64-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO LAND DEVELOPMENT REGULATIONS SECTION 4.4.13(D)(2)(a)(2) AND TABLE 4.4.13(C) WHICH REQUIRE A MINIMUM REAR SETBACK OF TEN FEET IN THE RAILROAD CORRIDOR SUB-DISTRICT OF THE CENTRAL BUSINESS DISTRICT; WHEREAS A REAR SETBACK OF 4 FEET 7 INCHES IS PROPOSED FOR 290 S.E. 2ND AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received a Class III Site Plan modification application (2019-220), which included a waiver request, to effectuate improvements to 290 SE 2<sup>ND</sup> Avenue (“the Property”); and

WHEREAS, the Property is located within the Railroad Corridor Sub-district of the Central Business District (CBD); and

WHEREAS, Land Development Regulations (“the LDRs”) Section 4.4.13(D)(2)(a)(2) and Table 4.4.13(C) set forth the dimensional requirements for CBD Subdistricts; in the Railroad Corridor Sub-district, the minimum rear setback is 10 feet; and

WHEREAS, the proposed waiver request seeks relief from the LDRs to allow the proposed second story to be built flush with the first story, which has an existing nonconforming rear seatback of 4 feet 7 inches, as more particularly described in Exhibit “A”; and

WHEREAS, at its February 26, 2020, meeting, the Site Plan Review and Appearance Board (SPRAB) voted 4 to 0 to recommend approval to the City Commission of the waiver from LDR Section 4.4.13(D)(2)(a)(2) and Table 4.4.13(C); and

WHEREAS, pursuant LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and

(d) Does not result in the grant of a special privilege in that the same waiver would be granted under a similar circumstance on other property for another applicant or owner; and

WHEREAS, pursuant to LDR Section 4.4.13(K)(5)(b)(2), in addition to the standards in LDR Section 2.4.7(B)(5), the approving body shall also make a finding that the granting of the waiver:

(a) The waiver shall not result in an inferior pedestrian experience along a Primary Street, such as exposing parking garages or large expanses of blank walls.

(b) The waiver shall not allow the creation of significant incompatibilities with nearby buildings or uses of land.

(c) The waiver shall not erode the connectivity of the street and sidewalk network or negatively impact any adopted bicycle/ pedestrian master plan.

(d) The waiver shall not reduce the quality of civic open spaces provided under this code.

WHEREAS, the City Commission reviewed the waiver request to LDR Section 4.4.13(D)(2)(a)(2) and Table 4.4.13(C), as it relates to the 10 foot rear setback for a reduction to 4 feet 7 inches, in accordance with the standards listed in LDR Sections 2.4.7(B)(5) and 4.4.13(K)(5)(b)(2), and has considered the respective findings as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings for the granting of the waiver from LDR Section 4.4.13(D)(2)(a)(2) and Table 4.4.13(C).

Section 3. The City Commission approves the waiver of the rear setback at the Property, as reflected in Exhibit “A”, which is incorporated herein.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Roger Cope.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

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Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney